

**PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT**

**DATE:** November 30, 2000

**TO:** Orange County Zoning Administrator

**FROM:** Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA00-0119 for Variance

**PROPOSAL:** A request for approval of a Variance for a 6.25 foot rear yard setback, in lieu of the required 15 ft. rear yard setback, in conjunction with the construction of a 365 sq. ft. bedroom and bathroom addition to an existing single family home.

**LOCATION:** E. of the intersection of the 605 & 405 Freeways at 11460 Harrisburg Road/Los Alamitos/Rossmoor; 2<sup>nd</sup> Supervisorial District.

**APPLICANT:** Richard D.McAuley, property owner

**STAFF** Jim Swanek, Project Manager  
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**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA00-0119 for Variance subject to the attached Findings and Conditions of Approval.

**BACKGROUND**

The applicant requests a Variance to construct a 365 sq. ft. bedroom & bathroom addition to an existing 1,650 sq. ft. single family home originally built in 1959. The proposed addition would encroach 10 feet into the 15 foot rear yard setback area, reducing the rear yard setback to 6.25 feet, in lieu of the required 15 ft. rear yard setback. The single story addition within the rear yard area would be along the flood control channel. The subject property is 8,680 sq. ft. in size, and is a rectangle averaging 70.5 feet wide and 124.5 feet deep. It is an interior lot fronting on Harrisburg Road.

**SITE ZONING AND SURROUNDING LAND USE**

The subject property is zoned R1/28, "Single Family Residence", intended for medium density single family detached residential neighborhoods, with a varying height limit, being 28 feet for elements of homes kept 25 feet from the rear property line, and 17 feet for those portions of homes less than 25 but more than 15 feet from the rear height limit. The proposed addition will have its gable match the existing house and is less than 17 feet in height. All surrounding property is also zoned R1/28 and developed with single family homes.

**CEQA COMPLIANCE**

The project has been determined to be Categorically Exempt from CEQA, Class 1 [CEQA Guidelines Section 15301 (e)] for additions to existing structures provided that the addition will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The determination that the subject request is Categorically Exempt from the requirements of CEQA must be made prior to project approval, with a finding to that effect by the Zoning Administrator. Recommended text is provided below.

**PUBLIC NOTICES AND COMMENTS RECEIVED**

Public notices were mailed to all owners of record within 300 ft. of the subject property, and were posted in front of the site and at 2 other locations within the County, at least ten days prior to this public hearing, as required by law. Copies of the planning application and sets of plans for the proposed project were distributed to the Rossmoor Homeowners Association and to four County divisions for review and comment. None had any comments or objections to the proposed variance request. The Homeowners Association has rarely objected in the past to rear yard variance requests where the home addition abutted a flood control channel, which is 45 feet wide along the rear of homes in this area. As of the time this report was written, staff had not received any public comments in opposition to the proposed project in response to the Public Notice.

**ANALYSIS AND CONCLUSION**

Before the requested Variances may be approved, the Zoning Administrator, in accordance with State and County Planning laws, must be able to make the variance findings listed below, in addition to the standard findings required for all discretionary permits (Appendix A).

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the requested variances will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff researched past rear yard variances approved within a 1-2 block radius of the subject property, and identified many variances for interior lots. Most notably, on September 9, 1999, the Zoning Administrator granted a variance via PA990083 for a 5' rear yard setback, only seven homes down from the subject property, on the other side of the same flood control channel involved in this case.

Staff believes approval of the requested rear yard variance would not constitute the granting of special privileges inconsistent with the limitations placed upon other property in the area, because, as described above, other rear yard variances for interior lots have been granted in the vicinity. Staff also believes that there are special circumstances applicable to the subject building site which, when applicable zoning

regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations, in that the subject property abuts a 45 foot wide flood control channel to the rear, so the proposed addition would not adversely impact any property to the rear. Staff therefore believes that both Variance findings can be made.

In terms of compliance with the findings required for all discretionary projects, the proposed project is consistent with the land uses and density of development allowed by the County's General Plan, will not be incompatible with surrounding land uses, would not adversely impact the neighboring property because the rear yard of the subject property abuts a 45 foot wide flood control channel.

### **RECOMMENDATION**

The Planning and Development Services Department, Current Planning Services Division, recommends that the Zoning Administrator:

- a. Receive the staff presentation and public testimony as appropriate; and
- b. Approve the requested Variance Application (PA00-0119), subject to the attached findings and conditions.

Respectfully submitted,

Charles M. Shoemaker, Chief  
Site Planning Section

### **APPEAL PROCEDURE**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.

### **LIST OF ATTACHMENTS**

- APPENDIX A. Recommended Findings
- APPENDIX B. Recommended Conditions of Approval

### **LIST OF EXHIBITS**

- EXHIBIT A. Applicant's Letter of Explanation/Justification
- EXHIBIT B. Site Photos
- EXHIBIT C. Project Plans

## Appendix A

### Findings

#### PA000119

AA01 1 GENERAL PLAN

PA000119

That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

AA02 2 ZONING

PA000119

That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.

AA03 3 COMPATIBILITY

PA000119

That the location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.

AA04 4 GENERAL WELFARE

PA000119

That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

AA05 5 PUBLIC FACILITIES

PA000119

That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

ED04 6 CATEGORICALLY EXEMPT

PA000119

That the proposed project is Categorically Exempt (Class 5) from the provisions of CEQA.

VA01 7 VARIANCE 1

PA000119 (Custom)

That there are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. These special circumstances are: that the subject property abuts a 45 foot wide flood control channel to the rear, which was the basis for the approval of numerous other rear yard variances for properties along the flood control channel, as proposed additions in this area would not adversely impact any party in that direction.

VA02 8 VARIANCE 2

PA000119

That approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

## Appendix B

### Conditions of Approval

#### PA000119

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Z01 1 CP CP BASIC/ZONING REG PA000119

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

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Z02 2 CP CP BASIC/TIME LIMIT PA000119

This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

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Z03 3 CP CP BASIC/PRECISE PLAN PA000119

Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

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Z04 4 CP CP BASIC/COMPLIANCE PA000119

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

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Z05 5 CP NA BASIC/OBLIGATIONS PA000119

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant will reimburse the County for any court costs and attorneys fees which the county may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

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Z06 6 CP NA BASIC/APPEAL EXACTIONS PA000119

Pursuant to Government Code Section 66020, the applicant is informed that the 90-day period in which the applicant may protest the fees, dedications, reservation or other extraction imposed on this project through the conditions of approval has begun.